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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

DONALD EDWARD GLENN,

Defendant and Appellant.

H046603

(Santa Clara County
Super. Ct. No. C1770971)

Defendant Donald Edward Glenn pleaded guilty to voluntary manslaughter (Pen. Code, § 192, subd. (a)),¹ and admitted that he had a prior serious felony conviction that also qualified as a strike (§§ 667, subds. (a), (b)-(i), 1170.12). The trial court sentenced defendant to 11 years in prison.

On appeal, defendant's appointed counsel has filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) that states the case and facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. That period has elapsed, and we have received no response from defendant.

Pursuant to *Wende, supra*, 25 Cal.3d 436 and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have reviewed the entire record. Following the California Supreme Court's direction in *Kelly, supra*, at page 110, we provide a brief description of the facts and the procedural history of the case.

¹ All further statutory references are to the Penal Code.

BACKGROUND

In September 2016, Valentin Cortes Osegué² was found stabbed to death in a field.³ During the subsequent investigation, multiple individuals reported that defendant and two others had been looking for the victim to confront him about another incident. After defendant and the others located the victim, the victim was stabbed multiple times.

A. Charges and Plea

On April 19, 2018, defendant was charged by information with murder (§ 187).⁴ The information also alleged that defendant had a prior serious felony conviction that also qualified as a strike (§§ 667, subds. (a), (b)-(i), 1170.12).

On July 6, 2018, on motion of the prosecutor, the information was amended to add as count 2 the allegation that defendant committed a felony violation of section 192, subdivision (a), voluntary manslaughter. Defendant pleaded guilty to count 2 and admitted that he had a prior serious felony conviction that also qualified as a strike (§§ 667, subds. (a), (b)-(i), 1170.12). He entered his plea and admissions with the understanding that he would be filing a *Romero* motion,⁵ and that the maximum sentence he would receive was 11 years in prison even if the court denied the motion. The remaining count was submitted for dismissal at the time of sentencing.

B. Sentencing and Appeal

Defendant filed a *Romero* motion requesting that the trial court exercise its discretion to dismiss the strike allegation. The People opposed the motion, arguing that defendant fell within the spirit of the Three Strikes law.

² The record on appeal contains documents also spelling the victim's name as "Valentin Cortes Segura."

³ As defendant was convicted by plea, the summary of his offense is taken from the probation report, which was based on a police report.

⁴ Two codefendants, who are not parties to this appeal, were also charged with murder.

⁵ *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

On December 14, 2018, the trial court denied the *Romero* motion. The court explained that defendant's prior strike conviction from 2012 was an assault with a deadly weapon and involved an unprovoked attack. Defendant had nine misdemeanor convictions, six of them since the strike conviction and two of which involved violence or weapons. At the time of the instant offense, defendant was on parole for the assault with a deadly weapon. Defendant and others chased the victim in the instant offense, which was violent and resulted in the victim's death. The court did not believe that defendant's actions were coerced, under duress, or partially excusable, and instead found that defendant and others had acted as vigilantes based on allegations against the victim. The court noted that defendant had employment prospects and the support of family and friends, but the court ultimately determined that defendant's prospects for the future "seem[ed] grim."

The trial court proceeded to sentence defendant to 11 years in prison. The court recognized that beginning January 1, 2019, it would have the discretion not to impose a five-year enhancement for defendant's prior serious felony conviction. The court stated that, even if sentencing took place after January 1, it would impose the five-year enhancement because there was violent conduct involving a weapon in this case, the victim was killed, defendant was on parole, and the prior and current offenses involved similar conduct. The court ordered defendant to pay various fines and fees. The court also made a general order of restitution, including \$6,040⁶ to the California Victim Compensation Board,⁷ with defendant and two codefendants jointly and severally liable. The remaining count was dismissed.

⁶ The felony abstract of judgment (Judicial Council form CR-290), dated December 20, 2018, incorrectly states in section 5 ("FINANCIAL OBLIGATIONS") that restitution was ordered in the amount of \$4,060. We will order this abstract of judgment corrected.

⁷ An "ABSTRACT OF JUDGMENT – RESTITUTION" (Judicial Council form (continued))

Defendant filed a timely notice of appeal and we appointed counsel to represent him in this court.

DISCUSSION

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal, other than the corrections of clerical errors in the abstract of judgment. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

DISPOSITION

The judgment is affirmed.

The felony abstract of judgment (Judicial Council form CR-290), dated December 20, 2018, is ordered corrected in section 5 (“FINANCIAL OBLIGATIONS”) to state that restitution was ordered in the amount of \$6,040. The clerk of the superior court is ordered to send a copy of the corrected abstract of judgment to the Department of Corrections and Rehabilitation.

The “ABSTRACT OF JUDGMENT – RESTITUTION” (Judicial Council form CR-111/JV-791) issued on January 11, 2019 is ordered stricken.

CR-111/JV-791) issued on January 11, 2019 incorrectly indicates that restitution was awarded to B.C., a family member of the victim. We will order this abstract of judgment stricken. (See *People v. Rowland* (1988) 206 Cal.App.3d 119, 124 [restitution order stricken from abstract of judgment where abstract failed to accurately reflect judgment pronounced by court].)

BAMATTRE-MANOUKIAN, J.

WE CONCUR:

ELIA, ACTING P.J.

MIHARA, J.

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